



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

**Greka Oil and Gas, Inc. a.k.a. Greka
SMV a.k.a. Greka Energy**

a California Corporation,

Respondent

Proceeding Under Section 311(c)
of the Federal Water Pollution Control Act,
33 U.S.C. § 1321(c)

)
) U.S. EPA Docket No.
) OPA 311-09-2008-0001
)
)
)
) ORDER FOR REMOVAL,
) MITIGATION OR PREVENTION OF A
) SUBSTANTIAL THREAT OF
) OIL DISCHARGE
)
)

I. AUTHORITY

1. This Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2008-0001 (the "Order"), is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), as amended ("CWA"). This authority has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and further delegated to the Regional Administrator by EPA Delegation No. 2-89 and to EPA Region 9 On-Scene Coordinators by Regional Order R9 1250.30 (September 30, 1997).

2. EPA issues this Order to Greka Oil and Gas, Inc. ("Greka"), referred to herein as "Respondent." This Order provides for the performance of removal actions in connection with

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the discharge of oil into a tributary of Zaca Creek, from Respondent's facility at 5017 Zaca Station Road, in Los Olivos, Santa Barbara County, California (the "Site"). This Order requires Respondent to immediately conduct response actions to remove the discharge or to mitigate or prevent the substantial threat of a discharge of oil or hazardous substances into or on navigable waters or adjoining shorelines.

II. PARTIES BOUND

3. This Order applies to and is binding on Respondent, and Respondent's directors, officers, employees, agents, receivers, trustees, successors, and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order.

III. DEFINITIONS

4. Unless expressly stated otherwise, terms used in this Order shall have such meaning as may be defined in Section 311(a) of the CWA, 33 U.S.C. § 1321(a).

5. "Order" shall mean this Order for Removal, Mitigation, or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2008-0001, and any documents incorporated herein.

6. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday.

IV. FINDINGS OF FACT AND VIOLATIONS

7. Respondent is incorporated in the state of Colorado. The registered agent for service of process on Respondent is Capitol Corporate Services, Inc. at 455 Capitol Mall Complex #217, in Sacramento, California.

8. Respondent owns and operates a crude oil production facility at the Site. On or about

January 4, 2008, a failure of an injection pump motor caused the produced water tank in the Davis Tank Battery to rupture, releasing 800-1200 barrels of crude oil and an unknown amount of produced water (the "Spill"). The Spill started sometime in the evening of January 4, 2008, and was discovered the morning of January 5, 2008, by Firestone Vineyard farm workers. The oil/water mixture spilled into the secondary containment for the Davis Tank Battery. This oil/water mixture then migrated through an open 12-inch diameter corrugated steel drainage pipe to a pad outside of the secondary containment. The oil/water mixture then migrated, following the drainage gradient through the Santa Barbara County Road Yard, the Firestone Winery equipment storage yard, and finally discharging through a drainage culvert into an unnamed tributary (the "Unnamed Tributary") and its adjoining shorelines. The Spill occurred during a heavy rain event.

9. As of January 25, 2008, there was continuous flow of water from the point where the Spill discharged into the Unnamed Tributary downstream to Zaca Creek, on to the Santa Ynez River, and into the Pacific Ocean. As of January 25, 2008, evidence of the Spill was visible in the area of the Unnamed Tributary's confluence with Zaca Creek.

10. The Unnamed Tributary, Zaca Creek, the Santa Ynez River, and the Pacific Ocean are "navigable waters" and/or tributaries to navigable waters and are "waters of the United States" as defined by Section 502 of the Clean Water Act, 33 U.S.C. ' 1362.

11. The Spill that discharged into the Unnamed Tributary constitutes a discharge or substantial threat of a discharge 1) into or on navigable waters, 2) on the adjoining shorelines to the navigable waters, or 3) that may affect natural resources, belonging to, appertaining to, or under the exclusive management authority of the United States.

12. The Spill that discharged into the Unnamed Tributary poses a substantial threat to public

health or welfare. The presence of heavy crude oil and produced water from the Spill poses a substantial threat of a continued release of oil into or on navigable waters and or their adjoining shorelines.

13. The work to be performed pursuant to this Order will be performed in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and any appropriate Regional or Area Contingency Plan, and is necessary to ensure the effective and immediate removal, mitigation, or prevention of a substantial threat from a discharge of oil or hazardous substance.

V. ON SCENE COORDINATOR and PROJECT COORDINATOR

14. Robert Wise, an employee of EPA Region 9, shall be the primary On Scene Coordinator (“OSC”) and shall have the authorities, duties, and responsibilities vested in the OSC by the National Contingency Plan, 40 C.F.R. Part 300. The OSC’s authority includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order. Within six (6) hours of the effective date of this Order, Respondent shall designate a project coordinator who shall be responsible for overseeing Respondent’s implementation of this Order. Respondent’s notice of designation shall include an address and telephone number for Respondent’s project coordinator. To the maximum extent possible, all oral communications between Respondent and EPA concerning the activities performed pursuant to this Order shall be directed through the OSC and Respondent’s project coordinator.

VI. WORK TO BE PERFORMED

15. Respondent shall follow the terms set forth in this Order and perform the work as required in this Order.

16. Respondent immediately shall work to ensure that oil from the Site does not enter into navigable waters or adjacent shorelines. Respondent shall take all necessary steps to remove the

discharge or threat of continued discharge of oil into such waters from the Site, including the removal of uncontained or leaking oil or oily water from the Site.

17. Respondent shall propose necessary corrective action measures for the Site in accordance with paragraph 18 of this Order in order to ensure that there is no longer a substantial threat of a discharge of oil to the environment. Respondent shall perform the actions as approved by EPA in accordance with the process for approval stated in paragraph 21 of this Order.

18. Respondent shall submit to EPA for approval the work plans described below. The work plans shall provide a concise description of the activities Respondent will conduct in order to comply with the requirements of this paragraph, including those addressed below. The applicable deadlines are listed below. Each work plan must provide schedules for implementing and completing all tasks described within the work plan. Each work plan must provide the name of the contractor or organization that is conducting the work. Respondent shall submit the following to EPA:

- a. A work plan to study and analyze of the cause(s) of the spill and to set forth plans for the design and implementation of measures necessary to halt the discharge of oil into the environment and prevent the reoccurrence of a discharge at the Site ("Work Plan 1"). Work Plan 1 shall include measures needed to insure full compliance with the requirements of 40 C.F.R. § 112: Oil Pollution Prevention. Respondent shall provide Work Plan 1 to EPA no later than February 18, 2008, by close of business. In addition to the copy of Work Plan 1 that Respondent will provide to Robert Wise (EPA OSC) pursuant to Paragraph 20, Respondent shall provide a copy of Work Plan 1 to Peter Reich, U.S. Environmental Protection Agency, Mail Code SFD-9-2, 75 Hawthorne Street, San Francisco, CA 94105.

- b. A work plan to study, design, and implement measures to clean up, remove, and properly dispose of all oil and petroleum contamination from the Site ("Work Plan 2"). Work Plan 2 shall describe measures used or to be used to remove oil from the Davis Tank Battery, all impacted areas upstream of the Unnamed Tributary, and the Unnamed Tributary itself. Work Plan 2 shall include a disposal plan and shall calculate the quantity of petroleum, oil, water, soil, or debris (according to the number of disposal containers used) that was generated during the spill cleanup. Each bulk liquid tank and roll-off-bin of waste petroleum, soil, debris, or other spill-generated material shall be sampled in accordance the representative sampling guidance pursuant to EPA Document No. SW-846 Chapter 9 or protocols provided by DFG. As part of Work Plan 2 please provide all permits pertaining to the use of your underground injection program, if underground injection is to be used to dispose of liquids generated during the response. Work Plan 2 must be approved by DFG in addition to EPA prior to implementation. Respondent must provide Work Plan 2 to EPA no later than January 30, 2008, by close of business.
- c. Submit a sampling plan detailing how Respondent will conduct post-removal confirmation sampling (the "Sampling Plan"). As part of the Sampling Plan, Respondent shall determine background levels for the contaminants of concern in impacted areas using accepted scientific and statistical methods. The contractor may use the background samples collected by EPA on January 10, 2008, or collect their own. The cleanup action levels shall be 1,000 parts per million (ppm) plus background for Total Petroleum Hydrocarbons (TPH) and the industrial

Preliminary Remedial Goal plus background for any specific analytes. The samples must be analyzed for TPH, heavy metals, volatile organic compounds (VOCs), and semi-VOCs. All samples must be submitted to a California-approved testing laboratory. The sampling plan must include, at a minimum, a soil and creek water sampling strategy and methodology, the number of samples to be collected, the analysis to be conducted, and a schedule. Sampling must occur in all areas impacted by the Spill outside the secondary containment of the Davis Tank Battery. The Sampling Plan shall also be subject to the approval of the DFG and the Santa Barbara County Fire Department. Copies of all data shall be sent directly to OSC Robert Wise at 2250 Obispo Ave., Ste. 101, Signal Hill, CA 90755. Respondent shall provide the Sampling Plan to EPA by February 7, 2008, by close of business.

- d. A work plan documenting post-removal controls for the Unnamed Tributary ("Work Plan 3). The measures for appropriate post-removal controls shall be consistent with section 40 C.F.R. § 300.415(l), and OSWER Directive 9360.2-02. Work Plan 3 is subject to approval by the DFG and any affected land owners. Respondent shall provide Work Plan 3 to EPA no later than February 1, 2008, by close of business.

19. Respondent shall implement the following actions immediately:

- a. Repair all damaged equipment at the Site to prevent future spills of petroleum or petroleum-contaminated media into the environment.
- b. Prevent further releases and impacts to the environment resulting from releases of crude oil or production water to waters of the United States and adjoining

shorelines.

- c. Terminate or prevent flow from the drainage conduit through which the Spill migrated through the secondary containment on the Davis Tank Farm. The termination/prevention may occur via welding plates over both ends of the pipe, placing the appropriate valve on the pipe, or removing the pipe and repairing the secondary containment.
- d. Remove all petroleum or petroleum-contaminated media released to the environment as a result of the Spill, including but not limited to, crude oil, produced water, contaminated creek waters, contaminated soil along all access roads, contaminated soil in the Unnamed Tributary, all drainage pathways to the Unnamed Tributary, petroleum-contaminated vegetation, wildlife habitat, Davis Tank Battery containment areas, and debris in aforementioned watersheds.
- e. Provide a daily update to EPA OSC Robert Wise at wise.robert@epa.gov. Notify EPA OSC Robert Wise as to any deviations from the work plans or Sampling Plan via e-mail.
- f. Meet all requirements pursuant to Title 29 C.F.R. § 1910.120(b) - (o): Hazardous Waste Operations and Emergency Response (HAZWOPER). Provide proof of compliance with 29 C.F.R. § 1910.120(b); 1910.120(e) and 1910.120(f). Provide proof of a respiratory protection program pursuant to 29 CFR § 1910.134. Provide EPA with all training records, proof of medical surveillance, and, for those employees that wear respiratory protection, copies of certification that each employee is fit to wear a respirator. Provide an updated site-specific safety plan. Provide these items to EPA no later than January 30, 2008, at 1700 hours.

- g. Provide EPA with a report documenting the events of 0400 hours, January 11, 2008, in which a Greka employee attempted to pump produced water into the bulk liquid tanks stored below the Davis Tank Battery by 1700 hours on January 30, 2008. This report must be notarized. Provide this report to the OSC or his representative and the DFG Incident Commander or his representative.

20. Respondent shall send the work plans, the Sampling Plan, and all notices required by this Order to:

Robert Wise, OSC
Environmental Protection Agency
2250 Obispo Ave., Ste. 101
Signal Hill, CA 90755

21. The work plans and Sampling Plan ("Plans") shall be reviewed by EPA and other responding agencies, which may approve, disapprove, require revisions, or modify them. If EPA requires revisions, Respondent shall submit a revised Plan within two (2) days after receipt of EPA's notification of the required revisions. Once approved, the Plans shall be deemed to be incorporated into and made a fully enforceable part of this Order. Within five (5) days after EPA approves of a Plan or any portion of a Plan or other work specified by this Order, Respondent shall begin implementation of the approved work.

22. Respondent shall perform the work necessary to complete the task(s) in this Order in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and shall comply with the schedules specified in this Order and in the Plans submitted pursuant to Paragraph 18.

23. Respondent shall notify EPA of any field work being conducted in accordance with this Order at least one (1) day prior to work being performed.

24. Respondent shall notify EPA of any proposed response actions that are not described in

this Order at least three (3) days prior to undertaking such actions including bringing the Zaca Lease, Davis Tank Battery, Chamberlain Lease or Chamberlain Tank Battery back on-line.

VII. RESERVATION OF RIGHTS AND PENALTIES

25. This Order shall not preclude EPA from taking any action authorized by the CWA or any other applicable law. EPA reserves the right to direct all activities, and to comment on and direct off-facility shipping and disposal and all other matters related to the response action directed by this Order. Furthermore, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to the CWA or other applicable law.

26. Violation of any term of this Order or oral direction from EPA may subject Respondent to an administrative civil penalty of up to \$32,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure, under Section 311(b)(7)(B) of the CWA, 33 U.S.C. § 1321(b)(7)(B).

VIII. REPORTING REQUIREMENTS and ACCESS

27. Respondent shall submit daily progress reports to EPA until all actions required by this Order are complete (unless otherwise directed in writing by EPA) via e-mail to the OSC at wise.robert@epa.gov. These reports shall describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, treatment and disposal information and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. The OSC may require more frequent reports when the activities at the Site warrant a higher reporting frequency.

28. Within thirty (30) days after completion of the actions required under this Order, the Respondent shall submit, for EPA review and approval, a final report summarizing all actions taken pursuant to this Order. The final report shall conform, at a minimum, with the requirements stated in 40 C.F.R. § 300.165 ("OSC Reports"). The final report shall include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report also shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. *I am aware that under section 309(c)(4) of the CWA, 33 U.S.C. § 1319(c)(4), there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

29. The Respondent shall provide EPA representatives access to the Site. The Respondent also shall provide EPA representatives access to all records and documentation related to the release or threat of release at the Site or to Respondent's implementation of this Order. Nothing in this Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including the CWA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

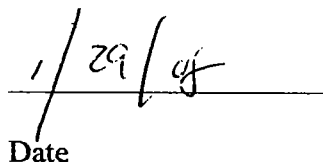
30. Where work under this Order is to be performed in areas owned by or in possession of someone other than the Respondent, the Respondent shall use its best efforts to obtain all necessary access agreements. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. The Respondent shall immediately notify EPA if it is unable to obtain such agreements. EPA may then assist the Respondent in gaining access using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from the Respondent for all costs and attorney's fees incurred by the United States in obtaining access for the Respondent.

IX. EFFECTIVE DATE

31. The effective date of this Order shall be the date of the receipt of this Order by the Respondent.



Robert Wise
On-Scene Coordinator
U. S. Environmental Protection Agency
Region 9


Date

cc: Mike Masey, EPA ORC
Peter Riech, EPA
Steve Calanog, EPA
Jorge Gross, DFG
Scott Adair, EPA
Pam McNulty, SBCo Petroleum
Tom Franklin, Dep. Chief, SBCOFD